IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Criminal Revision No. 380 of 2001
Date of Decision: 12.08.2010

Umed Singh

... Revision-Petitioner

Versus

State of Haryana.

...Respondent

CORAM: HON'BLE MR. JUSTICE SHAM SUNDER

Present: **Mr. G.K. Chawla, Advocate,**
for the revision-petitioner.

Mr. Amandeep Singh, AAG, Haryana,
for the respondent – State.

SHAM SUNDER, J.

*** * * ***

This revision-petition is directed against the judgement of conviction and the order of sentence dated 14.02.2000, rendered by the Court of Chief Judicial Magistrate, Gurgaon, vide which, it convicted the accused, for the offence, punishable under Section 411 IPC, and sentenced him to undergo rigorous imprisonment, for a period of 06 months, and, to pay a fine of Rs. 500/-, and, in default of payment thereof, to undergo simple imprisonment, for a period of 02 months, and, the judgement dated 27.02.01, rendered by the Court of Additional Sessions Judge, Gurgaon, vide which, it dismissed the appeal.

2. The facts, in brief, are that, on 04.09.97, Ramesh Chand Gupta, complainant, moved an application, to the Station House Officer, Police Station City Gurgaon, stating therein, that he had parked his Maruti car No. HR-26-A-0489, on 03.09.97, at 9.30 PM, near his godown, situated in Roshanpura, Gurgaon. On the next day, in the morning, the same, was found to have been stolen by some unknown person. On the basis of the complaint, made by the complainant, the first information report, was registered. The investigation was conducted. On 05.09.97, the car, was recovered, from the possession of Umed Singh and Om Parkash. Umed Singh, accused, was ultimately challaned.

3. On his appearance, in the Court, the accused, was supplied the copies of documents, relied upon by the prosecution.

4. Charge under Section 411 IPC, was framed, against the accused, which was read-over and explained to him, to which, he pleaded not guilty, and claimed judicial trial.

5. The prosecution, in support of its case, examined Ramesh Chand Gupta, complainant (PW1), Ravinder Kumar, Constable (PW2), Rajesh (PW3), Harkesh, Constable (PW4), and, Ishwar Singh, Assistant Sub Inspector (PW5), the Investigating Officer. Thereafter, the prosecution closed its evidence.

6. The statement of the accused, under Section 313 of the Code of Criminal Procedure, was recorded. He was put all the incriminating circumstances, appearing against him, in the prosecution evidence. He pleaded false implication.

7. After hearing the Counsel for the parties, and, on going through the evidence, on record, the trial Court, convicted and sentenced the accused, as stated above.

8. Feeling aggrieved, an appeal, was preferred, which was dismissed by the Court of Additional Sessions Judge, Gurgaon, vide judgement dated 27.02.01.

9. Still feeling dissatisfied, the instant revision-petition, has been filed by the revision-petitioner.

10. I have heard the Counsel for the parties, and, have gone through the evidence and record of the case, carefully.

11. The Counsel for the revision-petitioner, did not challenge the conviction, recorded by the trial Court and affirmed by the Appellate Court. He, on the other hand, submitted that, out of 06 months of sentence, the revision-petitioner, has already undergone 02 months and 13 days of sentence, till date, though, he has been facing the agony of protracted criminal proceedings, since 04.09.97, the date, when the first information report, was registered. He further submitted that, the sentence of the revision-petitioner, be reduced to the period already undergone.

12. The Counsel for the respondent, did not dispute the submission, made by the Counsel for the revision-petitioner.

13. As stated above, the conviction, recorded by the Courts below, was not challenged. Even otherwise, the Counsel for the revision-petitioner, could not successfully challenge the same, as the Courts below, on correct reading and due appreciation of the evidence

of Ramesh Chand Gupta, PW1, who deposed, with regard to the theft of his car, recovery whereof, was made, from the accused, Ravinder Kumar, Constable, PW2, a witness to the recovery, Rajesh, PW3, Harkesh, Constable, PW4, another witness to the recovery, and, Ishwar Singh, Assistant Sub Inspector, PW5, the Investigating Officer, were right, in coming to the conclusion, that the accused, dishonestly retained the stolen property, knowing or having reason to believe the same, to be stolen property, and, thus, committed the offence, punishable under Section 411 IPC. The findings, recorded by the Courts below, that the accused, was guilty of the offence, punishable under Section 411 IPC, do not suffer from any illegality or perversity. The conviction, recorded by the Courts below, qua the revision-petitioner, deserves to be upheld.

14. The revision-petitioner, has been undergoing the agony of protracted criminal proceedings since 04.09.97, the date, when the first information report, was registered, against him. He has already undergone 02 months and 13 days of sentence out of 06 months, awarded, to him, as per the custody certificate, submitted by his Counsel. In my considered opinion, the ends of justice will be met, if the sentence, awarded to the revision-petitioner, is reduced to the one already undergone.

15. For the reasons recorded above, the revision-petition, is partly accepted. The judgement of conviction, recorded by the Courts below, is upheld. The order of sentence, is modified, by reducing the sentence of the revision-petitioner, to 02 months and 13 days, instead

of rigorous imprisonment for 06 months, awarded by the trial Court and affirmed by the Appellate Court. The sentence, with regard to the imposition of fine, and, in default of payment thereof, however, shall remain intact.

16. The Chief Judicial Magistrate, is directed, to comply with the judgement, in accordance with the provisions of law, keeping in view the applicability of the provisions of Section 428 of the Code of Criminal Procedure, and send the compliance report, within a period of 15 days, from the date of receipt of a copy of the same.

12.08.2010 **(SHAM SUNDER)**
Amodh **JUDGE**